

Message Text

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ACTION EB-11

INFO OCT-01 EUR-25 ISO-00 CAB-09 CIAE-00 COME-00 DODE-00

INR-10 NSAE-00 RSC-01 FAA-00 DOTE-00 SS-20 NSC-10 L-03

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P 311610Z OCT 73

FM AMEMBASSY VIENNA

TO SECSTATE WASHDC PRIORITY 392

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E.O. 11652: N/A

TAGS: ETRN, AU

SUBJECT: CIVAIR: CHARTER UNDERSTANDING

REFERENCE: STATE 212011

1. EMBASSY AGAIN THIS WEEK HAD CONVERSATIONS WITH BOTH FONOFF AND CIVIL AVIATION DEPT ON STATUS OF PROPOSED MEMORANDUM OF UNDERSTANDING ON CHARTERS. AUSTRIAN AUTHORITIES ALREADY WARE OF PLANS FOR MGQNADE IT CRYSTAL CLEAR TO BOTH FONOFF AND AVIATION AUTHORITIES THAT IN ABSENCE OF AGREEMENT, CAB STAFF EXPECTED TO DENY WAIVER REQUEST.

2. ECONCOUNS REVIEWED SITUATION WITH MINISTER FISCHER IN FONOFF TUES. FISCHER RECITED FAMILIAR LITANY OF PROCEDURAL STEPS WHICH LEGAL DEPT INSISTS UPON. LEGAL DEPT IS ADAMANT THAT FORMAL EXCHANGE OF DIPLOMATIC NOTES WILL REQUIRE APPROVAL BY CABINET, PUBLICATION IN OFFICIAL GAZETTE BEFORE AGREEMENT CAN BECOME EFFECTIVE. FURTHERMORE, THERE NOW APPEARS TO BE SOME QUESTION WHETHER PARLIAMENTARY APPROVAL WOULD ALSO BE NECESSARY.

3. CIVIL AVIATION DEPT OFFICIALS ARE INCREASINGLY ANNOYED WITH FONOFF ON THIS MATTER. CIVAIR VIEW IS LIMITED OFFICIAL USE

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THAT AGREEMENT IS OF RELATIVELY MINOR IMPORTANCE, THAT

IT IS INHERENTLY TEMPORARY IN NATURE AND THAT THERE IS NO REASON WHY IT COULD NOT BE APPROVED WITH SIMPLE EXCHANGE OF NOTES WITHOUT FURTHER ADO. ISSUE HAS UNFORTUNATELY BECOME BONE OF CONTENTION BETWEEN FONOFF LEGAL SECTION AND CIVIL AVIATION DEPT.

4. MEETING WAS HELD BETWEEN FISCHER AND VOGEL, SENIOR CIVIL AVIATION DEPT OFFICIAL, YESTERDAY IN ATTEMPT TO RESOLVE MATTER. WE WERE INFORMED THIS AFTERNOON BY FONOFF THAT MEETING WILL BE HELD EARLY NEXT WEEK WITH LEGAL DEPT OF FONOFF. ONE POSSIBILITY TO BE EXPLORED AT THIS MEETING WILL BE POSSIBILITY OF EXCHANGE OF LETTERS BETWEEN OUR AMBASSADOR AND TRANSPORT MINISTER IN ORDER TO BRING AGREEMENT INTO EFFECT QUICKLY. IN RESPONSE TO THIS, WE INFORMED FONOFF WE WERE NOT AT ALL SURE THAT DEPT COULD ACCEPT SUCH A SOLUTION, BUT THAT WE WOULD REPORT THIS TO WASHINGTON.

5. FONOFF HAS REQUESTED THAT, PENDING NEXT WEEK'S MEETING, FLIGHTS SCHEDULED TO BEGIN NOV 7 BE APPROVED.

6. WE WOULD APPRECIATE HAVING DEPT'S GUIDANCE ON SUGGESTION FOR AGREEMENT BY MEANS OF EXCHANGE OF LETTERS BETWEEN TRANSPORT MINISTER AND AMBASSADOR, IN CASE THIS SHOULD BE FORMALLY PROPOSED TO US NEXT WEEK.

7. EMBASSY COMMENT AND RECOMMENDATION: WE CAN WELL UNDERSTAND DISINCLINATION OF CAB STAFF AT THIS POINT TO RECOMMEND WAIVER. HOWEVER, FACT REMAINS THAT AUSTRIAN CIVAIR AUTHORITIES HAVE FROM BEGINNING BEEN EXTREMELY COOPERATIVE WITH US ON THIS ISSUE. THEY READILY AGREED AT OUTSET TO ENTER INTO AGREEMENT AND ALSO READILY AGREED TO OUR OWN SUBSEQUENT CHANGES IN ORIGINAL DRAFT. CIVAIR AUTHORITIES HAVE BEEN TRYING HARD TO GET FONOFF TO WRAP UP THIS AGREEMENT. THEY HAVE ALSO TOLD US THAT FOR ALL PRACTICAL PURPOSES THEY REGARD AGREEMENT AS DE FACTO IN FULL FORCE AND EFFECT AS FAR AS THEY ARE CONCERNED.

8. WE DOUBT THIS MATTER CAN BE RESOLVED BY NOV 7. IF LIMITED OFFICIAL USE

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IT CANNOT BE, WE WOULD HOPE THAT CAB WOULD GRANT NECESSARY WAIVER FOR FLIGHTS SCHEDULED IN NEXT FEW WEEKS ON CLEAR UNDERSTANDING THAT AGREEMENT WOULD BE QUICKLY CONCLUDED.HUMES

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